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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,092	04/13/2004	Harper M. Bruce	291A	3153

7590 08/10/2005

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EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,092

Applicant(s)

BRUCE, HARPER M.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

S.O. 2

Detailed Action

This is the first Office Action corresponding to original filing. The application contains 15 claims.

Specification

The disclosure is objected to because of the following informalities: on page 1, the actual status of application 10/145,051 must be stated.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 5-9 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 7-10 of U.S. Patent No. 6,720,490. Although the conflicting claims are not identical, they are not

patentably distinct from each other because the subject matter of instant claims 1, 2 and 12 is also recited in claims 1 and of 2 of the patent; the subject matter of instant claims 6-9 is also recited in claims 8-10 of the patent.

Claim Rejections - 35 USC § 112

Claims 1-5, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is not clear if the U-shaped base is a positive element of the invention sought to be patented. The preamble of the claim recites the base as a subcombination; however, the test of the claim recites the base as a combination, in fact parts a-c of the claim defines the U-shaped base. Applicant is required to amend the claim to make it clear that the base is, or is not, a positive element of the combination. For the purpose of this Office Action, the examiner is considering the base as a positive element of the invention. Claim 2 is also confusing since it is not clear what is the bracket means secured to the vertical support member for supporting a vertical support (?). Does Applicant refer to the brackets 93 and 94 ?

Claim 4 lacks a proper antecedent for "the vertical support".

Claim 14 is not understood, the clause "there is at least one further auxiliary support member is secured" is confusing.

Claim 15 is not clearly understood, the clause "initially mentioned support member" is confusing.

No art is being applied against claims 14 and 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit (Pat No 4,067,527) in view of Biasini (Pat No 4,407,182).

The patent to Streit discloses a stand comprising a U-shaped base (2) having a central portion (6) supporting a vertical extending support member having bracket means (like 67); the U-shaped base capable of supporting an apparatus resting on a the floor. Fig 2 of Streit illustrates the legs defining the base being pivotally attached.

The patent to Biasini discloses a stand having telescopic legs (66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stand shown by Streit with telescopic sections as shown by Biasini to be obvious to reduce the size of the stand for storage or transportation.

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit in view of Basini and Woodhouse et al. (Pat No 6,215,054).

The patent to Woodhouse et al. discloses means (26) for locking the length of telescopic legs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stand shown by the combination set forth above with locking means as shown by Woodhouse et al. for locking the telescopic legs at a desired length.

Allowable Subject Matter

Claim 11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foster (4,738,425) shows a U-shaped base, Hamm (6,121,527) and Ladao (6,281,417) show stands with brackets, Fox (2003/0062663) shows stand with telescopic sections, and European Patent No 117,933 shows pivotally attached legs. Ditch (5,340,066) and Liao (6,215,056) were cited in the parent case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is

(571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST
FRIDAY OFF.

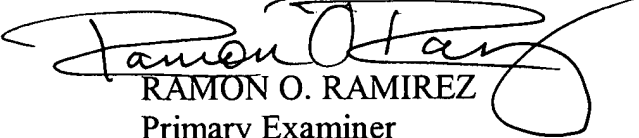
If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor ROBERT OLSZEWSKI, can be reached on (571) 272-6788.

The fax phone number for the organization where this application or proceeding
is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published
applications may be obtained from either Private PAIR or Public PAIR. Status
information for unpublished applications is available through Private PAIR only. For
more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you
have questions on access to the Private PAIR system, contact the Electronic Business
Center (EBC) at 866-217-9197 (toll-free).

A shortened period for response to this Office Action expires THREE MONTHS
from the mailing date of this action.

ROR
July 27, 2205


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632